

There can be no principled objection to the regulation by the state of entities that enjoy a privilege which is itself granted by the state

Dan Hind dismisses as nonsense the argument being voiced by the press regarding the menace of statutory regulation, noting that journalists are subject to arbitrary interference by editors and owners. While individuals have the inherent right to free speech, writing or speaking as an employee of a company precludes that ability.



Journalists and their editors have an unusual privilege. As brokers of public speech they largely determine how the world beyond our immediate experience appears to us. They decide what matters and who to take seriously. This privilege is particularly pronounced when it comes to their own trade, where, after all, they have firsthand knowledge. And they do not like to let outsiders in on the process, if they can help it. The anthropologist Georgina Born describes in her book *Uncertain Vision* a 1997 conversation with Jim Gray and Jeremy Paxman of *Newsnight*:

Both of them talk genially, reflectively, about how ironic it is that Newsnight and News and Current Affairs continually make claims for access to private and public institutions in the name of the public interest, and yet here they are, querying whether they should grant me access to their 11 am meeting. They don't.

At the moment the press are taking full advantage of their privileged position to talk a lot of nonsense about the menace that statutory regulation would pose to a free press. The unnamed authors of a *Telegraph* editorial tell their readers that “the growing clamour for press regulation backed by statute threatens a priceless British freedom”. The unnamed authors of an *Independent* editorial meanwhile opine that “for the most part, the British press, national and local, is the most vibrant, innovative, and tenacious in the world, and we know how to hold those in authority properly to account. We should be wary of anything that impairs that”.

These self-styled defenders of a free press fail to mention that they are usually employees of, or freelance contractors with, publicly traded companies that enjoy limited liability. Insofar as they are dependent for their position on the management of these companies they are not themselves free in any serious way. One does not often hear a journalist holding his employer “properly to account”. As James Harrington once remarked, “he who wants bread is his servant that will feed him”. And the condition of dependence remains after immediate needs are met. The lure of the preferment is perhaps even more corrupting than the fear of destitution.

Not surprisingly, these servants are not terribly reliable guides to free expression, or the ways in which the existing systems of communication frustrate it. So let's talk for a moment as though we aren't afraid that we'll never be commissioned to write for a newspaper again.

Only human beings are capable of speech. It follows that freedom of speech is a right that can only be claimed by human beings. Corporate controlled speech is already unfree, since it is already subject to arbitrary interference by editors and owners. The artificial monsters that control the bulk of print, broadcast and online media are not human beings and to consider them as such is only to succumb to their game of lucrative make-believe. Therefore we can regulate them in ways that cause no harm to the principle of free speech. We can coerce them in ways that would be unacceptable if applied to individuals.

If an individual wishes to speak freely he or she can only do so as an individual. There should be no law

abridging the freedom of the press in this regard. If I want to publish my own views, without the sheltering privilege of limited liability, then I should be entirely free to do so. The law should not interfere with my right to free expression, insofar as it does not infringe on the rights of others. I will stand full square behind what I write and take the consequences. But if I write or speak as an employee of a company, I am not writing as a free citizen. The organizations at whose pleasure I serve are creatures of state power. They fall, quite rightly, under the jealous eye of the sovereign power. They exist only insofar as they serve the common good.

There are important discussions to be had about the form that regulation takes. It is also reasonable to be concerned at the scope of regulation, the definition of a news publisher in the era of digital technology, and so on. But there can be no objection in principle to the regulation by the state of entities that enjoy a privilege granted by the state.

That said, while it might be desirable to regulate the press, to give a right to reply to wronged individuals, to set limits on the concentration of ownership and so on, this falls very far short of the changes needed if our communications system is to serve the cause of freedom. For one thing, the libel laws remain an unacceptable hindrance to open exchange and meaningful public debate.

More seriously, as Pierre Bourdieu once said, journalism is “a very powerful profession made up of very vulnerable individuals”. We rely on these vulnerable individuals to tell us about the world beyond our immediate experience. We rely on them for our picture of the world, for our sense of what is important and what can be ignored. But they aren’t vulnerable to us. They are vulnerable to their employers. Their employers are vulnerable in turn, but not to us.

Newspapers and broadcasters are courts, to use a good old republican term of abuse. They are closed to outside scrutiny. They reward those who serve them faithfully and they punish those who do not. The institutions operate in a world of power that is, at best, opaque. Not surprisingly, journalists struggle to describe reality when doing so challenges the interests of those who are in a position to harm them. That’s not to say that the people working in the media are all villains, far from it. But villainy is often the best policy. And even those who try their best to serve the public interest do so in conditions of vulnerability that they cannot adequately acknowledge.

The News International scandal created an opportunity to introduce some kind of regulation of the press. But mechanisms to curb the worst abuses will not create the journalism we need. It is time we started thinking seriously about the kind of communications system a free people needs.

This was originally posted on Dan’s personal blog [The Return of the Public](#).

Note: This article gives the views of the author, and not the position of the British Politics and Policy blog, nor of the London School of Economics. Please read our [comments policy](#) before posting.

About the author

Dan Hind is the author of two books, *The Threat to Reason* and *The Return of the Public*, which won the Bristol Festival of Ideas Prize in 2011. His e-book, *Maximum Republic* is published this week.

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